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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI V.K. SHRIVASTAVA, J.

M.A.(C) No. 358 of 2006

APPELLANT
NON-APPLICANT

S.M. Nagdeve, S/o M.B. Nagdeve, aged 48 yeasrs, Ex-Manager Raipur Alloys Company Limited, Raipur Siltara, Dongar Boar Pallemadi Mines, Khadgaon, Tah. Manpur, Distt. Rajnandgaon (C.G.)

VERSUS

RESPONDENTS

1. Smt. Satrupa Bai W/o Late Rajkumar Nai aged 31 years.
2. Ku.Sumeshwari D/o Late Rajkumar Nai aged about 12 years
3. Nakul Dev S/o Late Raj Kumar Nai aged 10 years
4. Ku. Bharti D/o Late Raj Kumar Nai aged 08 years.

   From No.2 to 4 are represented by their Mother Smt. Satrupa Bai W/o Late Rajkumar Nai R/o Village Khadgaon, Police Station-Mohala, Tahsil Manpur, Distt. Rajnandgaon (C.G.)
5. Commissioner, Workman Compensation, Labour Court, Rajnandgaon (C.G.)

Present: Shri Gautam Bhaduri, learned counsel for the appellant.

ORAL ORDER
(Passed on13th November, 2006)

The following oral order of the Court was passed by

S.R. NAYAK, CJ .

In this appeal preferred by the employer against the award dated 03-07-2006 in Case No. 33/WC Act/ Fatal/2005 passed by the Commissioner for Workmen's Compensation, Labour Court, Rajnandgaon filed under Section 30 of Workmen's Compensation Act,

1923, the following substantial questions of law are stated to arise for decision- making:

"**Substantial question of law**

(i) Whether the death of any workman caused by unidentified motor vehicle on public road after his duty will be with the definition of "accident" under Workmen's Compensation Act?

(ii) Whether the death caused to workman by road accident after his duty will have the casual connection with the accident and employment and whether the same can be enveloped within the definition of "in course of employment"?

(iii) Whether the death occurred by accident on public road will have the theory of notional extension of premises of employers"?

We have heard learned counsel for the appellant and perused the impugned award and other material papers laid before us. We are of the considered opinion that in this case no question of law much less any substantial question of law arises for decision-making. The only submission of the learned counsel for the appellant is that on the fateful day the deceased-employee left the factory premises with the leave of the Manager and he was hit by unknown / unidentified vehicle in the public road and therefore, the liability to pay compensation could not be fastened on the employer. There is no substance in this contention. Admittedly, such a plea was not taken in the written statement / objection filed before the Commissioner. It has came in the evidence that the deceased employee on the fateful day was working on the night shift and he was expected to work up to 06.00 a.m. but the accident took place between 05.00 a.m.– 05.45 a.m. on 23-03-2005. If the deceased-employee was in employment and was under an obligation to do his work up to 06.00 a.m. on fateful day, it could not be said that the death did not

occur in the course of employment within meaning of Section 3 of the Workmen's Compensation Act. Be that as it may, the fact-finding authority, the Commissioner having appreciated the evidence on record, recorded a factual finding that the death occurred and the accident arose out of and in the course of employment. It cannot be said that the above finding of the Commissioner is perverse for want of legal evidence nor could it be said that it is entirely based on surmises and conjectures. The appeal is devoid of merit and it is accordingly dismissed. No costs.

Sd/-
Chief Justice

Sd/-
V.K.Shrivastava
Judge

Kamde